

AJP

UNITED STATES OF AMERICA

v.

SALIM AHMED HAMDAN

**Defense Motion
to Dismiss**

5 December 2007

1. **Timeliness:** This motion is filed within the timeframe established by the Military Commissions Trial Judiciary Rules of Court.
2. **Relief Sought:** Defendant Salim Ahmed Hamdan moves for dismissal of the charges.
3. **Burden and Standard of Proof:** The burden is on the Prosecution to establish jurisdiction.
4. **Overview:** The issue presented is whether the legal advice provided to Convening Authority pursuant R.M.C. 406(b)(3) was sufficient to establish *prima facie* jurisdiction as required by *U.S. v. Khadr*, CMCR 07-001 (2007), when that advice relied exclusively on Mr. Hamdan's Combatant Status Review Tribunal determination that he was an enemy combatant and a member of, or affiliated with, al Qaeda, without further analysis of his status as an unlawful enemy combatant.
5. **Statement of Facts:** On February 2, 2007, charges were sworn against Mr. Hamdan and forwarded to the Convening Authority by the Chief Prosecutor.
(Attachment A.) The charges in question alleged personal jurisdiction over Mr. Hamdan based on "Title 10, U.S.C §948(d), the Military Commissions Act of 2006, hereinafter 'MCA'; its implementation by the Manual for Military Commissions (MMC), Chapter II, Rules for Military Commission (R.M.C.) 202 and 203; and the final determination of the

Combat Status Review Tribunal of 3 October 2004 that Hamdan is an unlawful enemy combatant as a member of, or affiliated with, al Qaeda.”

On April 5, 2007, a second set of charges against Mr. Hamdan was forwarded to the Convening Authority with the recommendation that the February 2, 2007 charges be dismissed and the new charges referred in their place. (Attachment B.)¹ The only assertion of jurisdiction in the revised charge sheet occurred in the statement, “Hamdan, a person subject to trial by military commission as an alien unlawful enemy combatant” (*Id.*)

On April 26, 2007, the Legal Advisor to the Convening Authority completed his Pretrial Advice and forwarded it to the Convening Authority. Paragraph C, concerning whether the commission would have jurisdiction over Mr. Hamdan, stated in part that “A Combatant Status Tribunal determined on October 3, 2004 that Hamdan is an enemy combatant and a member of, or affiliated with, al Qaeda. The M.C.A. defines such persons as unlawful enemy combatants. 10 U.S.C §948a(1).” (Attachment C.)

On May 1, 2007, the Convening Authority for Military Commissions approved the charges sworn against Mr. Hamdan on April 5, 2007.

On May 10, 2007, the Convening Authority dismissed the February 2, 2007 charges and directed amendments of the April 5 charges as advised by the Legal Advisor. The Convening Authority also referred the charges to this military commission pursuant to Military Commission Convening Order Number 07-04, dated May 1, 2007. *Id.* Thereafter, the parties treated May 10, 2007, as the date of referral.

On May 21, 2007, the Defense filed a discovery request with the Government.

¹ The charges sworn on April 5, 2007 are included in the Charge Sheet ultimately referred on May 10, 2007.

On June 4, 2007, Mr. Hamdan was arraigned. At arraignment, Mr. Hamdan deferred the entry of a plea. Following arraignment the military judge dismissed the charges against Mr. Hamdan.

On October 11, 2007, a supplemental discovery request was made to the Prosecution. This request noted that R.M.C. 701(b) requires that Trial Counsel disclose as soon as practical after service of charges “any paper that accompanied the charges, when they were referred,” but that the Defense had not been provided with the Legal Advisor’s written findings required by R.M.C. 406(b). (Attachment D).

On November 13, 2007, the Defense again via email requested the R.M.C. 406(b) advice from the Prosecution. (Attachment E).

On November 20, 2007, the Defense was granted permission to go to the Convening Authority’s office to obtain information on panel members that the defense had previously requested through a discovery request. While there, the Defense obtained a copy of the Legal Advisor’s advice. Later that day, the Defense was provided an electronic copy of the Prosecution “referral binder” by the Prosecution. The “referral binder” did not include a copy of the Legal Advisor’s advice.

6. Law and Argument:

In *U.S. v. Khadr*, CMCR 07-001 (2007), the Court of Military Commission Review was faced with two issues: first, whether “Mr. Khadr’s September, 2004 C.S.R.T. classification as an ‘enemy combatant’ was insufficient to satisfy the congressionally mandated requirement, established in the M.C.A., that military commission jurisdiction shall exist solely over offenses committed by ‘alien unlawful enemy combatants,’ *see* M.C.A. §§ 948c and 948d(a)””; and second, if the first question was answered negatively,

“whether the military judge erred in ruling that neither the military commission nor the military judge were empowered under the M.C.A. to receive evidence, and thereafter assess Mr. Khadr’s status as an “alien unlawful enemy combatant” for purposes of determining the commission’s criminal jurisdiction over him.” *Id.* at 7-8.

The court resolved the first issue by agreeing with the military judge “that Mr. Khadr’s 2004 C.S.R.T. classification as an ‘enemy combatant’ failed to meet the M.C.A.’s jurisdictional requirements in that it did not establish that Mr. Khadr was in fact an *unlawful* enemy combatant.” *Id.* at 9. The Court also resolved the first issue by declining to accept the Government’s argument that the parenthetical language contained in M.C.A. § 948a(1)(A)(i) – “including a person who is part of the Taliban, al Qaeda, or associated forces” – as evidence that “Congress statutorily ratified the President’s prior determination.” *Id.* at 11.

Having answered the question in the negative, the court turned to the question of whether the military judge was empowered to hear evidence from the Government to establish the accused’s unlawful combatant status. The court predicated its answer to the second question by observing that:

[Military Commission] jurisdiction attaches upon the formal swearing of charges against an accused Charges may then be referred for trial by military commission under R.M.C. 601 as long as “reasonable grounds [exist] to believe that an offense triable by a military commission has been committed and that the accused committed it.” R.M.C. 601(d). The only relevant limitation upon referral of charges is the requirement in R.M.C. 406(b) that, *inter alia*, prior to referral, the charge(s) must be referred to the convening authority’s legal officer for pretrial advice, and that individual must state his/her conclusion as to “whether a military commission would have jurisdiction over the accused and the offense.” *See* R.M.C. 406(b)(3). . . . We find that this facial compliance by the Government with all the pre-referral criteria contained in the Rules for Military Commissions, combined with an unambiguous allegation in the pleadings that [the accused] is “a person subject to trial by military commission as an alien unlawful enemy combatant,” entitled the military commission to initially and

properly exercise *prima facie* personal jurisdiction over the accused until such time as that jurisdiction was challenged by a motion to dismiss for lack thereof, or proof of jurisdiction was lacking on the merits. *Id.* at 21.

The court holding reflects a long-standing principal of military jurisdiction that the referral process is the equivalent of an indictment in a civil court and similar to a civil indictment, provides *prima facie* jurisdiction. See *United States v. Roberts*, 7 U.S.C.M.A. 322, 327 (C.M.A. 1956), adopting Judge Latimer's analogy that the military use of a formal pretrial investigation and convening authority consideration is the equivalent of a civil criminal indictment; *Costello v. United States*, 350 U.S. 359, 363 (1956), holding that “(A)n indictment returned by a legally constituted and unbiased grand jury, like an information drawn by the prosecutor, if valid on its face, is enough to call for trial of the charge on the merits.”

The Court’s presumption of jurisdiction, however, rests on facial compliance with R.M.C. 406(b). Without such compliance any trial proceeding in the face of a timely objection would be similar to a proceeding without a proper indictment, rendering it a nullity. *Roberts* at 326.

The Rules for Military Commission identify two factors as critical to the adequacy of the legal advisor’s pretrial advice. First, “[t]he legal advisor . . . must make an independent and informed appraisal of the charges and evidence in order to render the advice.” Second, while “[t]he advice need not set forth the underlying analysis or rationale for its conclusions[,] [w]hatever matters are included in the advice, whether or not they are required, should be accurate. Information which is incorrect . . . may result in a determination that the advice is defective.” R.M.C. 406(b) (discussion).

The legal advisor's advice in Mr. Hamdan's case with respect to *in personam* jurisdiction fails on both counts. The legal advisor offered no indication that he had made an "independent and informed appraisal" of the evidence to determine whether it supports *in personam* jurisdiction as contemplated by *Khadr*, nor does his advice reference any evidence from which an independent and informed appraisal might be inferred. Instead, the legal advisor relied exclusively on the fact that "a Combatant Status Tribunal determined on October 3, 2004, that Hamdan is an enemy combatant and a member of or affiliated with al Qaeda;" a finding that he erroneously concluded under 10 U.S.C. §948a(1). "[T]he M.C.A defines such persons as unlawful enemy combatants. 10. U.S.C. §948a(1)," Attachment C at 2. As such, the legal advisor's advice is not the independent and informed appraisal contemplated in *Khadr*, but rather the summation of the failed argument of why an independent and informed appraisal was unnecessary.

While R.M.C. 406 does not contemplate that every finding of error warrants a finding that the advice was defective, under *Khadr*, the legal advisor's reliance on Mr. Hamdan's CSRT finding that Mr. Hamdan meets the statutory definition of an unlawful enemy combatant clearly rises to the level of such a defect. The legal advisor relied on the very argument rejected by *Khadr*, and failed to offer any other independent conclusion. To allow the legal advisor to bootstrap this failed argument in order to establish that jurisdiction would void the requirements under R.M.C. 406 of any meaning.

The discussion to R.M.C. 406 notes that a defect in the legal advisor's advice is not jurisdictional; R.M.C. 905(b)(1) further explains that "[d]efenses or objections based on defects (*other than jurisdictional defects*) in the preferral, forwarding, investigation, or referral of charges," (emphasis added), must be raised before a plea is entered. Taken


together, R.M.C. 406 and 905 connect to adopt the rule in military courts-martial proceedings that a complaint to legal advice or referral must be made prior to the entry of a plea. *See United States v. Schuller*, 5 U.S.C.M.A. 101, 17 C.M.R. 101; *United States v. Parker*, 6 U.S.C.M.A. 75, 19 C.M.R. 201.

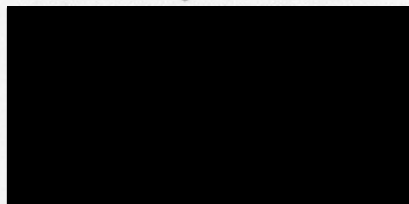
However, under this line of cases, “when an accused is deprived of a substantial pretrial trial right on timely objection, he is entitled to judicial enforcement of his right, without regard to whether such enforcement will benefit him at the trial.” *United States v. Regan* 14 U.S.C.M.A. 119, 124 (C.M.A. 1963). The deprivation of the 406(b) information from the Defense constitutes an infringement of a substantial pretrial right, and accordingly, Mr. Hamdan seeks dismissal of the charges against him as not properly referred before this Commission.

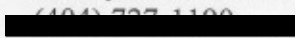
7. **Request for Oral Argument:** The Defense does not request oral argument on this motion.
8. **List of Witnesses:** As the Defense does not request oral argument, the Defense does not intend to call witnesses in connection with this motion, but reserves the right to do so if oral argument is scheduled and the Prosecution’s response raises issues requiring rebuttal testimony.
9. **Conference with Opposing Counsel:** The Defense has conferred with the Prosecution, who opposes the requested relief.
10. **List of attachments:**
 - A. Sworn Charges for Salim Ahmed Hamdan, February 2, 2007.
 - B. Referred Charges for Salim Ahmed Hamdan, May 10, 2007.
 - C. Legal Advisor’s Pretrial Advice, May 10, 2007.

- D. Defense Supplemental Request for Discovery, October 11, 2007
- E. November 13, 2007 electronic mail correspondence from Defense counsel
Charles Swift to the Prosecution requesting 406(b) advice.

Respectfully submitted,

By: 
LT BRIAN L. MIZER, JAGC, USN
Detailed Defense Counsel
ANDREA J. PRASOW
Assistant Defense Counsel

ounsel
ns
OE

PROF. CHARLES SWIFT
Emory School of Law

Civilian Defense Counsel

HARRY H. SCHNEIDER, JR.
JOSEPH M. MCMILLAN


Attachment A



**DEPARTMENT OF DEFENSE
OFFICE OF THE CHIEF PROSECUTOR
OFFICE OF MILITARY COMMISSIONS
1610 DEFENSE PENTAGON
WASHINGTON, DC 20301-1610**

(day) (month) (year)

MEMORANDUM FOR Detainee Salim Ahmed Hamdan 0149, Guantanamo Bay, Cuba

SUBJECT: Notification of the Swearing of Charges

1. You are hereby notified that criminal charges were sworn against you on the ____ day of _____, 2007, pursuant to the Military Commissions Act of 2006 (MCA) and the Manual for Military Commissions (MMC). A copy of this notice is being provided to you and to your detailed defense counsel.

2. Specifically, you are charged with the following offenses:

PROVIDING MATERIAL SUPPORT FOR TERRORISM

CONSPIRACY

(Read the charges and specifications to the accused. If necessary, an interpreter may read the charges in a language, other than English, that the accused understands.)

AFFIDAVIT OF NOTIFICATION

I hereby certify that a copy of this document was provided to the named detainee this ____ day of _____, 2007.

Signature

Organization

Typed or Printed Name and Grade

Address of Organization

CHARGE SHEET**I. PERSONAL DATA****1. NAME OF ACCUSED:**

SALIM AHMED HAMDAN

2. ALIASES OF ACCUSED:

Salim Ahmad Hamdan, Salem Ahmed Salem Hamdan, Saqr al Jadawy, Saqr al Jaddawi, Khalid bin Abdalla, Khalid w'l'd Abdallah

3. ISN NUMBER OF ACCUSED (LAST FOUR):**II. CHARGES AND SPECIFICATIONS****4. CHARGE: VIOLATION OF SECTION AND TITLE OF CRIME IN PART IV OF M.M.C.****SPECIFICATION:****INTRODUCTION**

1. The accused, Salim Ahmad Hamdan, (a/k/a Salem Ahmed Salem Hamdan, Saqr al Jadawy, Saqr al Jaddawi, Khalid bin Abdalla, hereinafter "Hamdan"), is a person subject to trial by military commission for violations of the law of war and other offenses triable by military commission, as an alien unlawful enemy combatant. At all times material to the charges:

JURISDICTION

2. Jurisdiction for this Military Commission is based on Title 10, U.S.C. §948(d), the Military Commission Act of 2006, hereinafter "MCA," its implementation by the Manual for Military Commissions (MMC), Chapter II, Rules for Military Commissions (RMC) 202 and 203; and the final determination of the Combatant Status Review Tribunal of 3 October 2004 that Hamdan is an unlawful enemy combatant as a member or, or affiliated with, al Qaeda.

3. The accused's charged conduct is subject to trial by a military commission. (continued)

III. SWEARING OF CHARGES**5a. NAME OF ACCUSER (LAST, FIRST, MI)****5b. GRADE****5c. ORGANIZATION OF ACCUSER**

OMC-PROSECUTION

5d. SIGNATURE**5e. DATE (YYYYMMDD)**

20070202

AFFIDAVIT: I, the undersigned, a law to administer oath in cases of this character, personally appeared the above named accuser the 2nd day of February, 2007, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

WILLIAM B. BRITT

Typed Name of Officer

OMC-PROSECUTION

Organization of Officer

O-5

Grade

10 U.S.C. 1044(b)

Official Capacity to Administer Oath
(See R.M.C. 307(b) must be commissioned officer)

IV. NOTICE TO THE ACCUSED

6. On February 2, 2007 the accused was notified of the charges against him/her (See R.M.C. 308).

WILLIAM B. BRITT

*Typed Name and Grade of Person Who Caused
Accused to Be Notified of Charges*

OMC-PROSECUTION

*Organization of the Person Who Caused
Accused to Be Notified of Charges*

Signature

V. RECEIPT OF CHARGES BY CONVENING AUTHORITY

7. The sworn charges were received at _____ hours, on _____, at _____

Location

For the Convening Authority: _____

Typed Name of Officer

Grade

Signature

VI. REFERRAL

8a. DESIGNATION OF CONVENING AUTHORITY

8b. PLACE

8c. DATE (YYYYMMDD)

Referred for trial to the (non)capital military commission convened by military commission convening order _____

_____ subject to the following instructions¹: _____

By _____ of _____
Command, Order, or Direction

Typed Name and Grade of Officer

Official Capacity of Officer Signing

Signature

VII. SERVICE OF CHARGES

9. On _____, _____ I (caused to be) served a copy these charges on the above named accused.

Typed Name of Trial Counsel

Grade of Trial Counsel

Signature of Trial Counsel

FOOTNOTES

¹See R.M.C. 601 concerning instructions. If none, so state.

GENERAL ALLEGATIONS

4. Al Qaeda ("the Base"), was founded by Usama bin Laden and others in or about 1989 for the purpose of opposing certain governments and officials with force and violence.
5. Usama bin Laden is recognized as the *emir* (prince or leader) of al Qaeda.
6. A purpose or goal of al Qaeda, as stated by Usama bin Laden and other al Qaeda leaders, is to support violent attacks against property and nationals (both military and civilian) of the United States for the purpose of forcing the United States to withdraw its forces from the Arabian Peninsula and to oppose U.S. support of Israel.
7. Al Qaeda operations and activities have historically been planned and executed with the involvement of a shura (consultation) council composed of committees, including: political committee; military committee; security committee; finance committee; media committee; and religious/legal committee.
8. Between 1989 and 2001, al Qaeda established training camps, guest houses, and business operations in Afghanistan, Pakistan, and other countries for the purpose of training and supporting violent attacks against property and nationals (both military and civilian) of the United States and other countries.
9. In August of 1996, Usama bin Laden issued a public "Declaration of Jihad Against the Americans," in which he called for the murder of U.S. personnel serving on the Arabian peninsula.
10. In February of 1998, Usama bin Laden, Ayman al Zawahiri, and others, under the banner of "International Islamic Front for Fighting Jews and Crusaders" issued a fatwa (purported religious ruling) requiring all Muslims able to do so to kill Americans – whether civilian or military- anywhere they can be found and to "plunder their money."
11. On or about May 29, 1998, Usama bin Laden issued a statement entitled "The Nuclear Bomb of Islam," under the banner of the "International Islamic Front for Fighting Jews and Crusaders," in which he stated that "it is the duty of the Muslims to prepare as much force as possible to terrorize the enemies of God."



12. In or around 2001, al Qaeda's media committee created As Sahab ("The Clouds") Media Foundation which has orchestrated and distributed multi-media propaganda detailing al-Qaeda's training efforts and its reasons for its declared war against the United States.

13. Since 1989 members and associates of al Qaeda, known and unknown, have carried out numerous terrorist attacks, including, but not limited to: the attacks against the American Embassies in Kenya and Tanzania in August 1998; the attack against the USS COLE in October 2000; and the attacks on the United States on September 11, 2001.

14. On or about October 8, 1999, the United States designated al Qaeda a foreign terrorist organization pursuant to Section 219 of the Immigration and Nationality Act, and on or about August 21, 1998, the United States designated al Qaeda a "specially designated terrorist" (SDT), pursuant to the International Emergency Economic Powers Act.

SUBSTANTIVE OFFENSES

CHARGE I: Violation of Part IV, MMC §950v(28) - CONSPIRACY

Specification 1:

15. In that Hamdan did, in Afghanistan and other countries, from in or about February 1996 to on or about November 24, 2001, willfully join an enterprise of persons who shared a common criminal purpose said criminal purpose known to the said accused and conspired and agreed with Usama bin Laden, Saif al Adel, Dr. Ayman al Zawahari (a/k/a "the Doctor"), Muhammad Atef (a/k/a Abu Hafs al Masri), and other members and associates of the al Qaeda organization, known and unknown, to commit the following offenses subject to trial by military commission: attacking protected property; attacking civilians; attacking civilian objects; murder in violation of the law of war; destruction of property in violation of the law of war;; hijacking or hazarding a vessel or aircraft; and terrorism.

16. In furtherance of this enterprise and conspiracy, Hamdan and other members or associates of al Qaida knowingly committed at least one of the following overt acts in order to accomplish some objective or purpose of the conspiracy, to wit;

a. In 1996, Hamdan met with Usama Bin Laden in Qandahar, Afghanistan and ultimately became a bodyguard and personal driver for Usama bin Laden. Hamdan served in this capacity until his capture in November of 2001. Based on his contact with Usama bin Laden and members or associates of al Qaida during this period, Hamdan believed that Usama bin



Laden and his associates were involved in the attacks on the USS COLE in October 2000, and the attacks on the United States on September 11, 2001.

b. From 1996 through November 2001, Hamdan:

1. transported and delivered weapons, ammunition or other supplies to al Qaeda members and associates;
2. picked up weapons at Taliban warehouses for al Qaeda use and delivered them directly to Saif al Adel, the head of al Qaeda's security committee, in Qandahar, Afghanistan;
3. served as a driver for Usama bin Laden and other high ranking al Qaeda members and associates;
4. served as an armed bodyguard for Usama bin Laden and other high ranking al Qaeda members and associates.

c. On various occasions between 1996 and November of 2001, Hamdan drove or accompanied Usama bin Laden to various al Qaeda-sponsored training camps, press conferences, or lectures. During these trips, Usama bin Laden would give speeches in which he would encourage others to conduct "martyr missions" (meaning an attack wherein one would kill himself as well as the targets of the attack) against the Americans, to engage in war against the Americans, and to drive the "infidels" out of the Arabian Peninsula.

d. Between 1996 and November of 2001, Hamdan, on various occasions received weapons training in Afghanistan.

Specification 2:

17. In that Hamdan did, in Afghanistan, on or about November 24, 2001, willfully enter into an agreement with one or more members of al Qaeda or Taliban to commit the offense of Murder in Violation of the Law of War, a substantive offense subject to trial by military commission, to wit; the murder of United States or Coalition service members serving as pilots, crew or passengers of United States or Coalition military aircraft, knowing the unlawful purpose of said agreement and joining into said agreement willingly with the intent to further said unlawful purpose, knowingly commit an overt act in order to accomplish some objective or purpose of said agreement, to wit, transporting one or more SA-7 surface to air missiles to be ultimately used to unlawfully and intentionally kill said United State or



Coalition service members said overt act being in violation of the law of war and taking place in the context of and associated with armed conflict.

CHARGE II: Violation of Part IV, MMC §950v(25) - PROVIDING MATERIAL SUPPORT FOR TERRORISM

Specification 1:

18. In that Hamdan did, in Afghanistan and other countries, from in or about February 1996 to on or about November 24, 2001, in the context of or associated with an armed conflict, provide material support and resources to wit: personnel, himself, to be used in preparation for or carrying out an act of terrorism, and that the said Hamdan knew or intended that the said material support or resources were to be used for an act of terrorism, by joining the terrorist organization known as al Qaeda and performing at least one of the following:

- a. Attended and received training at an al Qaeda terrorist weapons training camp;
- b. Served as a driver for Usama bin Laden and other high ranking al Qaeda members and associates transporting them to various locations in Afghanistan;
- c. Served as Usama bin Laden's armed bodyguard at various locations throughout Afghanistan;
- d. Transported weapons or weapons systems or other supplies for the purpose of delivering or attempting to deliver said weapons or weapons systems to al Qaeda members and associates.

Specification 2:

19. In that Hamdan did, in Afghanistan and other countries, from in or about February 1996 to on or about November 24, 2001, in context of or associated with an armed conflict and with knowledge that al Qaeda has engaged in or engages in terrorism, did provide material support or resources, to wit: personnel, himself, to al Qaeda, an international terrorist organization engaged in hostilities against the United States, with the intent to provide such material support and resources to al Qaeda, by becoming a member of the organization and performing at least one of the following:

- a. Attended and received training at an al Qaida terrorist weapons training camp;
- b. Served as a driver for Usama bin Laden and other high ranking al Qaida members and associates transporting them to various locations in Afghanistan;
- c. Served as Usama bin Laden's armed bodyguard at various locations throughout Afghanistan;
- d. Transported weapons or weapons systems or other supplies for the purpose of delivering or attempting to deliver said weapons or weapons systems to al Qaida members and associates.

Specification 3.

20. In that Hamdan did, in Afghanistan, on or about November 24, 2001, in the context of or associated with an armed conflict, provide material support and resources to wit: weapons and weapons systems, to wit; one or more SA-7 surface to air missiles, to be used in preparation for or carrying out an act of terrorism, and the said Hamdan knew or intended that these missiles were to be used for an act of terrorism, by joining the terrorist organization known as al Qaeda and knowingly provide one or more SA-7 surface to air missiles to members of al Qaeda, Taliban or others directly associated with said organizations.

Specification 4.

21. In that Hamdan did, in Afghanistan, on or about November 24, 2001, in context of or associated with an armed conflict and with knowledge that al Qaeda, has engaged in or engages in terrorism, did provide material support or resources, to wit, weapons and weapons systems, to wit; one or more SA-7 surface to air missiles to al Qaeda, an international terrorist organization engaged in hostilities against the United States, with the intent to provide such material support and resources to al Qaeda, by knowingly provide one or more SA-7 surface to air missiles to members of al Qaeda, Taliban or others directly associated with said organizations.



Specification 5.

22. In that Hamdan did, in Afghanistan and other countries, from in or about February 1996 to on or about November 24, 2001, in the context of or associated with an armed conflict, provide material support and resources to wit: service or transportation by serving as a driver for Usama bin Laden and other high ranking al Qaeda members and associates by transporting them to various locations in Afghanistan knowing and intending that by providing said service or transportation he was directly facilitating communication and planning used for an act of terrorism.

Specification 6.

23. In that Hamdan did, in Afghanistan and other countries, from in or about February 1996 to on or about November 24, 2001, in the context of or associated with an armed conflict and with knowledge that al Qaeda, an international terrorist organization engaged in hostilities against the United States, has engaged in or engages in terrorism, by intentionally providing material support or resources to al Qaeda, to wit: service or transportation to Usama bin Laden and other high ranking al Qaeda members and associates by transporting them to various areas in Afghanistan knowing that by providing said service or transportation he was directly facilitating communication and planning used for acts of terrorism.

Specification 7.

24. In that Hamdan did, in Afghanistan and other countries, from in or about February 1996 to on or about November 24, 2001, in the context of or associated with an armed conflict, provide material support and resources to wit: service as an armed body guard for Usama bin Laden, knowing and intending that by providing said service as an armed bodyguard he was protecting the leader of al Qaeda and facilitating communication and planning used for acts of terrorism.

Specification 8.

25. In that Hamdan did, in Afghanistan and other countries, from in or about February 1996 to on or about November 24, 2001, in the context of or associated with an armed conflict and with knowledge that al Qaida, an international terrorist organization has engaged in hostilities against the United States, has engaged in or engages in terrorism, intentionally provide material support or resources, to al Qaida, to wit: service as an armed body guard for Usama bin Laden by knowing that by providing said service as an armed body guard for Usama bin



Laden he was protecting the leader of al Qaeda and facilitating communication and planning used for acts of terrorism.

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Attachment B

CHARGE SHEET**I. PERSONAL DATA****1. NAME OF ACCUSED:**

SALIM AHMED HAMDAN (hereafter "Hamdan")

2. ALIASES OF ACCUSED:

Salim Ahmad Hamdan, Salem Ahmed Salem Hamdan, Saqr al Jadawy, Saqr al Jaddawi, Khalid bin Abdalla, Khalid w/d Abdallah

3. ISN

[REDACTED]

II. CHARGES AND SPECIFICATIONS**4. CHARGE: VIOLATION OF SECTION AND TITLE OF CRIME IN PART IV OF M.M.C.**

SPECIFICATION: (See Attached Charge Sheet)

III. SWEARING OF CHARGES**5a. NAME OF ACCUSER (LAST, FIRST, MI)**

[REDACTED]

5b. GRADE

[REDACTED]

5c. ORGANIZATION OF ACCUSER

OMC-PROSECUTION

5d. SIGNATURE

[REDACTED]

[REDACTED]

FIDA [REDACTED] by law to administer oath in cases of this character, personally appeared the above named accuser the 5th day of April, 2007, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

WILLIAM B. BRITT

Typed Name of Officer

OMC-PROSECUTION

Organization of Officer

O-5

Grade

[REDACTED]

10 U.S.C. 1044(b)

Official Capacity to Administer Oath
(See R.M.C. 307(b) must be commissioned officer)

15

IV. NOTICE TO THE ACCUSED

6. On 5th April, 2007 the accused was notified of the charges against him/her (See R.M.C. 308).

LTC WILLIAM B. BRITT

[REDACTED] Person Who Caused
Accused to Be Notified of Charges

OMC-PROSECUTION

[REDACTED] Organization of the Person Who Caused
Accused to Be Notified of Charges

V. RECEIPT OF CHARGES BY CONVENING AUTHORITY

7. The sworn charges were received at 1411 hours, on 6 April 2007, at Arlington, Virginia

Location

For the Convening Authority [REDACTED]

[REDACTED]
Typed Name of Officer

CW3

Grade

[Signature]
Signature

VI. REFERRAL

8a. DESIGNATION OF CONVENING AUTHORITY
Convening Authority 10USC §948h
Appointed on 6 Feb 2007

8b. PLACE
Arlington, Virginia

8c. DATE (YYYYMMDD)
20070510

Referred for trial to the (non)capital military commission convened by military commission convening order 07-04
dated 1 May 2007

subject to the following instructions¹: this case is referred

non-capital

~~By~~ [REDACTED] ~~XX~~
Command, Order, or Direction

Susan J. Crawford

Typed Name and Grade of Officer

Convening Authority 10USC §948h

Official Capacity of Officer Signing

VII. SERVICE OF CHARGES

9. On _____, 2007 I (caused to be) served a copy these charges on the above named accused.

WILLIAM B. BRITT

Typed Name of Trial Counsel

O-5

Grade of Trial Counsel

[Signature]
Signature of Trial Counsel

FOOTNOTES

¹See R.M.C. 601 concerning instructions. If none, so state.

UNITED STATES OF AMERICA)	<u>CHARGES</u>
)	
)	Conspiracy
v.)	
)	Providing Material
SALIM AHMED HAMDAN)	Support for Terrorism
(hereafter "Hamdan"))	
)	

CHARGE I: VIOLATION OF 10 U.S.C. §950v(b)(28), CONSPIRACY

Specification 1: In that Hamdan, a person subject to trial by military commission as an alien unlawful enemy combatant, did, in Afghanistan and other countries, from in or about February 1996 to on or about November 24, 2001, conspire and agree with Usama bin Laden, Saif al Adel, Ayman al Zawahari, Sheikh Sayeed al Masri, Muhammad Atef (a/k/a Abu Hafs al Masri), Saif al Adel and various members and associates, known and unknown, of the al Qaeda organization and join an enterprise of persons known as al Qaeda, and said al Qaeda engaged in hostilities against the United States, including the 1998 attack against the American Embassies in Kenya and Tanzania, the 2000 attack against the USS Cole, the September 11, 2001 attack against the United States and other, separate attacks, continuing to date and the aforementioned members and associates of al Qaeda shared a common criminal purpose that involved the commission or intended commission of one or more substantive offenses subject to trial by military commission, to wit: attacking civilians; attacking civilian objects; murder in violation of the law of war; destruction of property in violation of the law of war; hijacking or hazarding a vessel or aircraft; and terrorism and the said Hamdan knew the unlawful purpose of the agreement and the common criminal purpose of the enterprise and joined willfully, with the intent to further said unlawful purpose, and in order to accomplish some objective or purpose of the agreement or enterprise, Hamdan knowingly committed at least one of the following overt acts:

- a. Hamdan served as bodyguard for Usama Bin Laden;
- b. Hamdan served as Usama Bin Laden's personal driver;
- c. Hamdan transported and delivered weapons, ammunition or other supplies to al Qaeda members and associates;

[Handwritten signature]

d. Hamdan drove or accompanied Usama bin Laden to various al Qaeda-sponsored training camps, press conferences, or lectures.

e. Hamdan, on various occasions, received weapons training in Afghanistan.

Specification 2: In that Hamdan, a person subject to trial by military commission as an alien unlawful enemy combatant, did, in Afghanistan, on or about November 24, 2001, willfully enter into an agreement with one or more known or unknown members of al Qaeda or Taliban to commit the offense of Murder in Violation of the Law of War, a substantive offense subject to trial by military commission, to wit: the murder of United States or Coalition service members serving as pilots, crew or passengers of United States or Coalition military aircraft, knowing the unlawful purpose of said agreement and joining into said agreement willingly with the intent to further said unlawful purpose, knowingly commit an overt act in order to accomplish some objective or purpose of said agreement, to wit, transporting one or more SA-7 surface to air missiles to be ultimately used to unlawfully and intentionally kill said United States or Coalition service members.

**CHARGE II: VIOLATION OF 10 U.S.C. §950v(b)(25) – PROVIDING
MATERIAL SUPPORT FOR TERRORISM**

Specification 1: In that Hamdan, a person subject to trial by military commission as an alien unlawful enemy combatant, did, in Afghanistan and other countries, from in or about February 1996 to on or about November 24, 2001, in the context of or associated with an armed conflict, provide material support and resources to wit: personnel, himself, to be used in preparation for or carrying out an act of terrorism, and that the said Hamdan knew the said material support or resources were to be used for an act of terrorism, by joining the terrorist organization known as al Qaeda and performing at least one of the following:

- a. Received training at an al Qaeda training camp;
- b. Served as a driver for Usama bin Laden transporting him to various locations in Afghanistan;
- c. Served as Usama bin Laden's armed bodyguard at various locations throughout Afghanistan;



d. Transported weapons or weapons systems or other supplies for the purpose of delivering or attempting to deliver said weapons or weapons systems to Taliban or al Qaeda members and associates.

Specification 2: In that Hamdan, a person subject to trial by military commission as an alien unlawful enemy combatant, did, in Afghanistan and other countries, from in or about February 1996 to on or about November 24, 2001, in context of or associated with an armed conflict and with knowledge that al Qaeda has engaged in or engages in terrorism, did provide material support or resources, to wit: personnel, himself, to al Qaeda, an international terrorist organization engaged in hostilities against the United States, with the intent to provide such material support and resources to al Qaeda, by becoming a member of the organization and performing at least one of the following:

- a. Received training at an al Qaeda training camp;
- b. Served as a driver for Usama bin Laden transporting him to various locations in Afghanistan;
- c. Served as Usama bin Laden's armed bodyguard at various locations throughout Afghanistan;
- d. Transported weapons or weapons systems or other supplies for the purpose of delivering or attempting to deliver said weapons or weapons systems to Taliban or al Qaeda members and associates.

Specification 3: In that Hamdan, a person subject to trial by military commission as an alien unlawful enemy combatant, did, in Afghanistan, on or about November 24, 2001, in the context of or associated with an armed conflict, provide material support and resources to wit: weapons and weapons systems, to wit; one or more SA-7 surface to air missiles, to be used in preparation for or carrying out an act of terrorism, and the said Hamdan knew these missiles were to be used for an act of terrorism, by joining the terrorist organization known as al Qaeda and knowingly providing one or more SA-7 surface to air missiles to members of al Qaeda, Taliban or others directly associated with said organizations.

Specification 4: In that Hamdan, a person subject to trial by military commission as an alien unlawful enemy combatant, did, in Afghanistan, on or about November 24, 2001, in the context of or associated with an armed conflict and with knowledge that al Qaeda, has engaged in or engages in terrorism, did provide material support or resources, to wit,

weapons and weapons systems, to wit: one or more SA-7 surface to air missiles to al Qaeda, an international terrorist organization engaged in hostilities against the United States, with the intent to provide such material support and resources to al Qaeda, by knowingly providing one or more SA-7 surface to air missiles to members of al Qaeda, Taliban or others directly associated with said organizations.

Specification 5: In that Hamdan, a person subject to trial by military commission as an alien unlawful enemy combatant, did, in Afghanistan and other countries, from in or about February 1996 to on or about November 24, 2001, in the context of or associated with an armed conflict, provide material support and resources to wit: service or transportation by serving as a driver for Usama bin Laden by transporting him to various locations in Afghanistan knowing that by providing said service or transportation he was directly facilitating communication and planning used for an act of terrorism.

Specification 6: In that Hamdan, a person subject to trial by military commission as an alien unlawful enemy combatant, did, in Afghanistan and other countries, from in or about February 1996 to on or about November 24, 2001, in the context of or associated with an armed conflict and with knowledge that al Qaeda, an international terrorist organization engaged in hostilities against the United States, had engaged in or engages in terrorism, intentionally provide material support or resources to al Qaeda, to wit: service or transportation to Usama bin Laden by transporting him to various areas in Afghanistan knowing that by providing said service or transportation he was directly facilitating communication and planning used for acts of terrorism.

Specification 7: In that Hamdan, a person subject to trial by military commission as an alien unlawful enemy combatant, did, in Afghanistan and other countries, from in or about February 1996 to on or about November 24, 2001, in the context of or associated with an armed conflict, provide material support and resources to wit: service as an armed body guard for Usama bin Laden, knowing that by providing said service as an armed bodyguard he was protecting the leader of al Qaeda and facilitating communication and planning used for acts of terrorism.

Specification 8: In that Hamdan, a person subject to trial by military commission as an alien unlawful enemy combatant, did, in Afghanistan and other countries, from in or about February 1996 to on or about November 24, 2001, in the context of or associated with an armed conflict and with knowledge that al Qaeda, an international terrorist organization has engaged in hostilities against the United States, had engaged in or engages in terrorism, intentionally provide material support or resources, to al Qaeda, to wit: service as an armed



body guard for Usama bin Laden by knowing that by providing said service as an armed body guard for Usama bin Laden he was protecting the leader of al Qaeda and facilitating communication and planning used for acts of terrorism.



Attachment C

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UNITED STATES OF AMERICA)	
)	
v.)	
)	
Salim Ahmed Hamdan)	LEGAL ADVISOR'S PRETRIAL ADVICE
a.k.a. Salem Ahmed Salem Hamdan, Saqr al)	
Jadawy, Saqr al Jaddawi, Khalid bin Abdalla,)	
Khalid wl'd Abdallah)	
(hereinafter "Hamdan"))	

Pursuant to the Military Commissions Act of 2006 (M.C.A.) and the Manual for Military Commissions of 2007 (M.M.C.), the Chief Prosecutor has prepared and forwarded the attached charges that were sworn against Hamdan on April 5, 2007, in accordance with Rule for Military Commissions (R.M.C.) 307. The Chief Prosecutor has also forwarded, with a recommendation that you dismiss them, the charges sworn against Hamdan on February 2, 2007. The two sets of charges are nearly identical in substance, but differ in form.

R.M.C. 401 permits only the Secretary of Defense or a convening authority appointed by him to dispose of charges. As a convening authority designated by the Secretary of Defense for the purpose of convening military commissions, you have the authority to dismiss one or both sets of charges or to refer one of them to trial by military commission.

R.M.C. 406 requires that I advise you on certain matters before you may refer any charge or specification to trial by a military commission. After examining the charge sheet, allied papers, and supporting evidence, I have concluded as follows:

a. With respect to whether each specification alleges an offense under the MCA.

I conclude that Specification 1 of Charge I alleges an offense under the M.C.A. (10 U.S.C. § 950v(b)(28); paragraph 6(28), Part IV, M.M.C.).

I conclude that Specification 2 of Charge I alleges an offense under the M.C.A. (10 U.S.C. § 950v(b)(28); Paragraph 6(28), Part IV, M.M.C.).

I conclude that the specifications of Charge II each alleges an offense under the M.C.A. (10 U.S.C. § 950v(b)(25); paragraph 6(25), Part IV, M.M.C.).

b. With respect to whether the allegation of each offense is warranted by the evidence. I have considered the evidence in the referral notebook (attached; containing TABS A to G) presented by the Chief Prosecutor. As to whether this evidence establishes probable cause to support each charge of each specification:

In my opinion, specification I of Charge I, is warranted by the evidence, except so much of the specification as alleges conspiracy to commit the offenses of hijacking vessels and aircraft.

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In my opinion, specification 2 of Charge I is warranted by the evidence.

In my opinion, the specifications of Charge II are warranted by the evidence.

c. With respect to whether a military commission would have jurisdiction over the accused and the offense.

The President is authorized to establish military commissions under chapter 47A of title 10, United States Code. 10 U.S.C. § 948b(b). The President, by executive order on February 14, 2007, established military commissions to try alien unlawful enemy combatants for offenses triable by military commission as provided in chapter 47A of title 10. Military commissions may try any offense under the M.C.A. or the law of war when committed by an alien unlawful enemy combatant before, on, or after September 11, 2001. 10 U.S.C. § 948d(a); R.M.C. 203. A Combatant Status Review Tribunal determined on October 3, 2004, that Hamdan is an enemy combatant and a member of or affiliated with al Qaeda. The M.C.A. defines such persons as unlawful enemy combatants. 10 U.S.C. § 948a(1). Finally, Hamdan is a citizen of Yemen and not of the United States. Therefore, it is my opinion that a military commission has both *in personam* and subject matter jurisdiction over the accused.

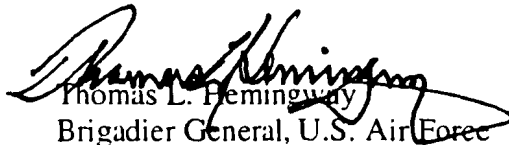
d. Conclusion with respect to whether trial of the charges would be harmful to national security.

I have concluded, after consultation with the Office of the Director of National Intelligence and appropriate intelligence agencies, that trial of these charges would not be harmful to national security.

e. Recommendation of the action to be taken by the convening authority.

SJC
5-10-07 (1) I recommend that you dismiss the charges sworn on February 2, 2007.

SJC
5-10-07 (2) I recommend that you amend the charges sworn on April 5, 2007, by striking from specification 1 of Charge I the words "hijacking or hazarding a vessel or aircraft," and that you refer to trial by military commission all Charges and specifications, as amended. To approve this recommendation, sign the attached charge sheet, recording your decision.


Thomas L. Hemingway
Brigadier General, U.S. Air Force

Legal Advisor to the Convening Authority
for Military Commissions

APR 26 2007

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DIRECTION OF THE CONVENING AUTHORITY

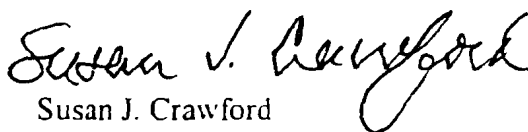
I direct that the Charges sworn on February 2, 2007 be dismissed.

I amend Specification 1 of Charge 1 of the Charges sworn on April 5, 2007, by striking from Specification 1 of Charge I the words "hijacking or hazarding a vessel or aircraft."

I amend the typographical error in Specification 1 of Charge I of the Charges sworn of April 5, 2007 by striking the first instance of the name "Saif al Adel" in Specification 1 of Charge I.

I refer all Charges and Specifications, as amended, to a non-capital military commission to be convened by Military Commission Convening Order Number 07-04, dated 1 May 2007.

5-10-07



Susan J. Crawford
Convening Authority
For Military Commissions

Attachment D



DEPARTMENT OF DEFENSE
OFFICE OF THE CHIEF DEFENSE COUNSEL
1620 DEFENSE PENTAGON
WASHINGTON, DC 20301-1620

11 Oct 2007

MEMORANDUM FOR THE PROSECUTION IN THE CASE OF SALIM AHMED HAMDAN

From: Andrea J. Prasow, Assistant Defense Counsel

Subj: Supplemental Request for Discovery – U.S. v. SALIM AHMED HAMDAN

1. Pursuant to the Rules for Military Commissions (R.M.C.) 701(c)(1) the Defense in the above-styled case requests the Prosecution provide the following:

a. All correspondence, investigations, written statements and meeting notes related to the complaint(s) made by Colonel Morris Davis, USAF, the former Chief Prosecutor for Military Commissions, with respect to the actions of General Hartmann, USAF, the Military Commissions Convening Authority's Legal Advisor, the existence of which was reported in the Wall Street Journal on September 26, 2007. Wherein the Chief Prosecutor is reported to allege material interference in his duties and quoted as saying, "If someone above me tries to intimidate me in determining who we will charge, what we will charge, what evidence we will try to introduce, and how we will conduct a prosecution then I will resign." Subsequently, Colonel Davis resigned on or October 5, 2007 raising material issues of law and fact with regards to R.M.C. 104 (Unlawful Command Influence).

b. Additionally the Defense notes that R.M.C 701(b) requires that Trial Counsel disclose as soon as practical after service of charges "any paper that accompanied the charges, when they were referred." Beyond Mr. Hamdan's charge sheet and certificate of service, the Defense is in receipt of questionnaires considered by the Convening Authority and other papers related to the selection of members. The Defense, however, notes that at minimum papers accompanying the charge sheet should also include the Legal Advisor's written findings as required by R.M.C. 406(b) and request this oversight be corrected at the earliest opportunity.

Andrea J. Prasow



Attachment E

USSOUTHCOM JTFGTMO

FW: DISCOVERY

2007-10-12:13 -0500

Colonel,

Do you have an estimate as to when the prosecution will be providing discovery? Defense preparation is largely at a standstill pending discovery in the case. Of particular concern is adequate time to interview agents and others present during Hamdan's interrogations. It is going to take time to contact and interview these people, and I would very much appreciate getting the contact information for the agent's, translators and other persons involved in interrogations as soon as possible.

Additionally, regarding the agents and translators involved in Mr. Hamdan's interrogations, CDR Lang previously agreed to furnish the defense with photo's of all of the agents involved. These photos were offered as an alternative method for discussing interrogations with Hamdan without revealing the agent's identity. I believe that the photos were discussed in the original protective order that was reinstated in the present case. I trust that the government is still willing to provide the photos and that they will be coming shortly.

Regarding our supplemental discovery request, would it be more convenient for LNI Lindee to go to the Convening Authority's office and copy the members questionnaire, Legal Advisor's advice etc? I understand that you are busy and I certainly have no objection to her going over and copying the material. I just want to ensure that there is not a disagreement as to what constituted the papers that accompanied Mr. Hamdan's charges.

Finally, I appreciate that the question of whether or not to release the investigations concerning Colonel Davis' complaints is outside of your control. I would ask that you will press for a decision as soon as possible. I understand that the government's position is likely to be that Colonel Davis allegations are without merit, and therefore, there is nothing of relevance in them. Given the public nature of the allegations and the implications they raise concerning unlawful command influence, I hope you can understand that this is an instance where the defense cannot accept denial of wrong doing from the responsible parties as sufficient to resolve the matter. If the defense's request is never-the-less going to be denied, please let me know as soon as possible so that we may file an appropriate motion to compel.

Thank you for your prompt attention.

Prof Charlie Swift
Emory School of Law
Civilian Defense Counsel

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Share life as it happens with the new Windows Live. Share now!
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Filings Inventory – US v. Hamdan

As of 1015 hours, 5 Dec 2007

This Filings Inventory includes only those matters filed since 1 March 2007.

Dates in red indicate due dates

Prosecution (P Designations)

Name	Motion Filed	Response	Reply	Status /Disposition/Notes 0R = First (original) filing in series Letter indicates filings submitted after initial filing in the series. R=Reference	AE
P 001: Motion to Reconsider (Dismissal Order)	1929hr 08 June 07	20 June 07	26 June 07	<ul style="list-style-type: none">• Prosecution Motion to Reconsider (Dismissal Order)• A. Def Resp dtd 20 Jun 07• B. Pros Reply dtd 26 Jun 07• C. C – MJ invite supp briefs on UEC meaning – compare MCA to CSRT, dtd 6 Aug 07	OR - 023 A – 024 B - 025 C - 026

Prosecution (P Designations)

Name	Motion Filed	Response	Reply	Status /Disposition/Notes 0R = First (original) filing in series Letter indicates filings submitted after initial filing in the series. R=Reference	AE
P 001: (Continued)	1929hr 08 June 07	20 June 07	26 June 07	<ul style="list-style-type: none"> • D. Def Supp Brief Leg Hist, dtd 17 Aug 07 • E. Gov Supp Brief Leg Hist, dtd 17 Aug 07 • F. Def Reply to Gov Supp Brief Leg Hist, dtd 24 Aug 07 • G. Gov Reply to Def Supp Brief Leg His, dtd 24 Aug 07 • H. Def Special Request to Submit Post CMCR (Khadr) Ruling Supplemental Brief, dtd 27 Sep 07 • I. Def Post CMCR (Khadr) Supp Brief, dtd 1 Oct 07 • J. Gov Resp to Def Post CMCR (Khadr) Supp Brief, dtd 2 Oct 07 • K. MJ Ruling on Motion to Reconsider, dtd 17 Oct 07 • L. MJ email Initial Notice of Hearing Post Reconsideration of Motion to Dismiss • M. MJ email Amending Order dtd 13 Nov 07 • N. Def email dtd 15 Nov 07 requesting Clarification of MJ Amended Order 	D - 027 E – 028 F – 029 G – 030 H – 031 I – 032 J – 033 K – 034 L – 041 M – 041 N – 041

Name	Motion Filed	Response	Reply	Status /Disposition/Notes 0R = First (original) filing in series Letter indicates filings submitted after initial filing in the series. R=Reference	AE
P 001: (Continued)				• O. MJ email dtd 15 Nov 07 Clarifying Amended Order	O - 041
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				•	

Defense (D Designations)

Designation Name	Motion Filed / Attachs	Response Filed / Attachs	Reply Filed / Attachs	Status /Disposition/Notes OR = First (original) filing in series Letter indicates filings submitted after initial filing in the series. Ref=Reference	AE
D 001: Motion to Dismiss for Lack of Jurisdiction (CSRT)	18 May 07	2018 hr 25 May 07	1 June 07	<ul style="list-style-type: none"> • Defense Motion to Dismiss for Lack of Jurisdiction • A. Attachment B (SECRET) to Motion to Dismiss for lack of Jurisdiction. SEALED • B. Government Response to Defense Motion to Dismiss.) • C. Defense Reply, dtd 1 Jun 07 • D. MJ Ruling, dtd 4 Jun 07 • E. MJ Corrected Order, dtd 4 Jun 07 • F. Clerk of Court email, dtd 30 Nov 07, containing Amicus Brief filed by Duke Guantanamo Defense Clinic 	OR – 008 A - 009 B – 010 C – 013 D – 021 E – 022 F - 049
D 002: Request for Special Relief to Extend Continuance Deadline				<ul style="list-style-type: none"> • See Inactive Section 	
D 003: Request for Continuance				<ul style="list-style-type: none"> • See Inactive Section 	
D 004: Defense Motion for Article 5 Status Determination, or, Alternately, Dismissal for Lack of Personal Jurisdiction	20 Nov 07	27 Nov 07	30 Nov 07	<ul style="list-style-type: none"> • Defense Motion, dtd 20 Nov 07 • A. Gov Resp, dtd 27 Nov 07 • B. Def Reply, dtd 30 Nov 07 	OR – 042 A – 043 B – 047
D 005: R.M.C. 802 Request re Production of Witnesses				<ul style="list-style-type: none"> • See inactive section 	
D 006: Request for Continuance				<ul style="list-style-type: none"> • See inactive section 	

Designation Name	Motion Filed / Attachs	Response Filed / Attachs	Reply Filed / Attachs	Status /Disposition/Notes 0R = First (original) filing in series Letter indicates filings submitted after initial filing in the series. Ref=Reference	AE
D 007: Defense Motion to Compel Access to Potential Witnesses	4 Dec 07			• Motion Filed	OR - 053
D 008: Defense Motion for Compelling Testimonial Immunity	4 Dec 07			• Motion Filed	OR - 054
D 009: Defense Motion to Compel Production of Witnesses	4 Dec 07			• Motion Filed	OR - 055
D 010: Defense Motion to Dismiss	5 Dec 07			• Motion Filed	OR - 056
				•	
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				•	

MJ Designations

Designation Name (MJ)	Status /Disposition/Notes 0R = First (original) filing in series Letter indicates filings submitted after initial filing in the series. Ref=Reference	AE
MJ 001: Detail of Military Judge, and Scheduling of First Session	<ul style="list-style-type: none"> • See Inactive Section 	
MJ 002: Voir Dire	<ul style="list-style-type: none"> • See Inactive Section 	
MJ 003: Rules of Court	<ul style="list-style-type: none"> • See Inactive Section 	
MJ 004: Motion by Press Petitioners for Public Access to Proceedings and Records	<ul style="list-style-type: none"> • Motion by Press Petitioners, dtd 21 Nov 07 • A. MJ email dtd 26 Jun 07 directing parties to provide their positions on how the Commission should treat and respond to the Motion by Press Petitioners • B. Government Response, dtd 29 Nov 07 • C. Defense Response, dtd 30 Nov 07 	OR – 048 A – 048 B – 048 C – 048
MJ 005: Scheduling of Second Session and Special Instructions	<ul style="list-style-type: none"> • Sent to all parties 18 Oct 07 w/hearing date 9 Nov 07 • A. MJ email dtd 24 Oct 07 granting continuance and rescheduling hearing to 5 Dec 07 • B. Defense email containing evidentiary disclosures dtd 28 Nov 07 • C. Prosecution emails containing evidentiary disclosure exhibits dtd 28 Nov 07 (two videos on disk maintained by Court Reporter) • D. Prosecution disclosure exhibits (SECRET) SEALED 	OR – 038 A – 038 B – 044 C – 045 D - 046

PROTECTIVE ORDERS

Pro Ord #	Designation when signed	Signed Pages	Date	Topic	AE
				•	

Inactive Section

Prosecution (P Designations)

Name	Motion Filed	Response	Reply	Status /Disposition/Notes 0R = First (original) filing in series Letter indicates filings submitted after initial filing in the series. Ref=Reference	AE
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Inactive Section

Defense (D Designations)

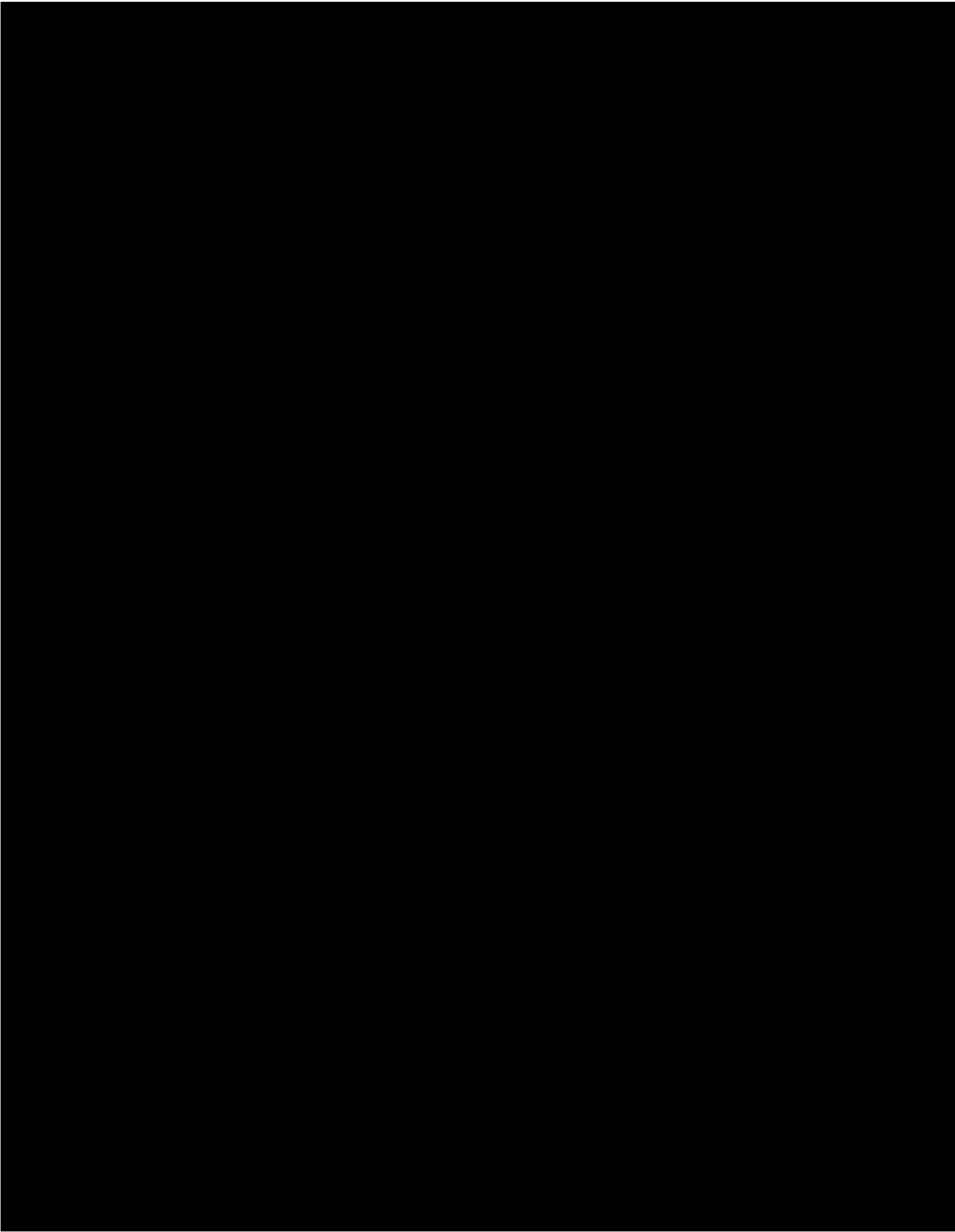
Designation Name	Motion Filed / Attachs	Response Filed / Attachs	Reply Filed / Attachs	Status /Disposition/Notes 0R = First (original) filing in series Letter indicates filings submitted after initial filing in the series. Ref=Reference	AE
D 002: Request for Special Relief to Extend Continuance Deadline	14 May 07			<ul style="list-style-type: none"> • Defense Special Request for Relief to Extend Continuance Request Deadline from 17 May 07 to 24 May 07 • A. Granted by MJ 15 May 07 	(None) (None)
D 003: Request for Continuance	22 Oct 07	23 Oct 07		<ul style="list-style-type: none"> • Defense Request for Continuance until 29 Nov 07 • A. Government Response to Defense Request for Continuance, dtd 23 Oct 07 • B. MJ email Granting extension until 5 Dec 07 	OR – 038 A – 038 B - 038
D 005: R.M.C. 802 Request re Production of Witnesses	29 Nov 07			<ul style="list-style-type: none"> • R.M.C. 802 Request re Production of Witnesses, dtd 29 Nov 07 • A. MJ email requesting admin information on R.M.C. 802 hearing and agenda, dtd 29 Nov 07 • B. Defense email with proposed agenda of R.M.C. 802 hearing and admin data, dtd 29 Nov 07 • C. Defense email with attachments to proposed agenda, dtd 29 Nov 07 • D. Defense email with additional attachment to proposed agenda for R.M.C. 802 hearing, dtd 30 Nov 07 	OR – 050 A – 050 B – 050 C – 050 D – 050

Designation Name	Motion Filed / Attachs	Response Filed / Attachs	Reply Filed / Attachs	Status /Disposition/Notes 0R = First (original) filing in series Letter indicates filings submitted after initial filing in the series. Ref=Reference	AE
D 005: (Continued)	29 Nov 07			<ul style="list-style-type: none"> • E. MJ email declining to hold R.M.C. 802 hearing on issues in which he can not rule, dtd 30 Nov 07 	E - 050
D 006: Request for Continuance				<ul style="list-style-type: none"> • Defense request for Continuance due to production of witnesses issues, dtd 30 Nov 07 • A. Prosecution email containing proposed trial schedule, dtd 30 Nov 07 • B. Defene email containing proposed trial schedule, dtd 30 Nov 07 • C. MJ ruling denying Defense Motion to Continue, dtd 30 Nov 07 	OR – 051 A – 051 B – 051 C - 051
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Inactive Section

MJ Designations

Designation Name (MJ)	Status /Disposition/Notes 0R = First (original) filing in series Letter indicates filings submitted after initial filing in the series. Ref=Reference	AE
MJ 001: Detail of Military Judge, and Scheduling of First Session	<ul style="list-style-type: none"> • Sent to all parties 11 May 07 w/arraignment date of 4 Jun 07 • A. MJ ruling on 27 Apr - arraignment on 4 Jun 07 email instructions to parties setting 802 session for 1900, 3 Jun 07 and arraignment for 1300, 4 Jun 07 	OR - 005 (None)
MJ 003: Rules of Court	<ul style="list-style-type: none"> • Sent to all parties 11 May 07 • A. Change 1 sent to all parties 11 Oct 07 • B. Change 2 sent to all parties 2 Nov 07 	OR - 005 A – (None) B - 039
MJ 002: Voir Dire	<ul style="list-style-type: none"> • MJ sent bio and Matters re Voir Dire 11 May 07 directing questions be submitted by 23 May 07 • A. Voir dire submitted by defense on 29 May 07 with request for leave to file late • B. (No voir dire submitted by prosecution) • C. MJ responses to voir dire submitted by defense and request for late filing granted 	OR -005 A - 012 (None) C - 012
	•	
	•	

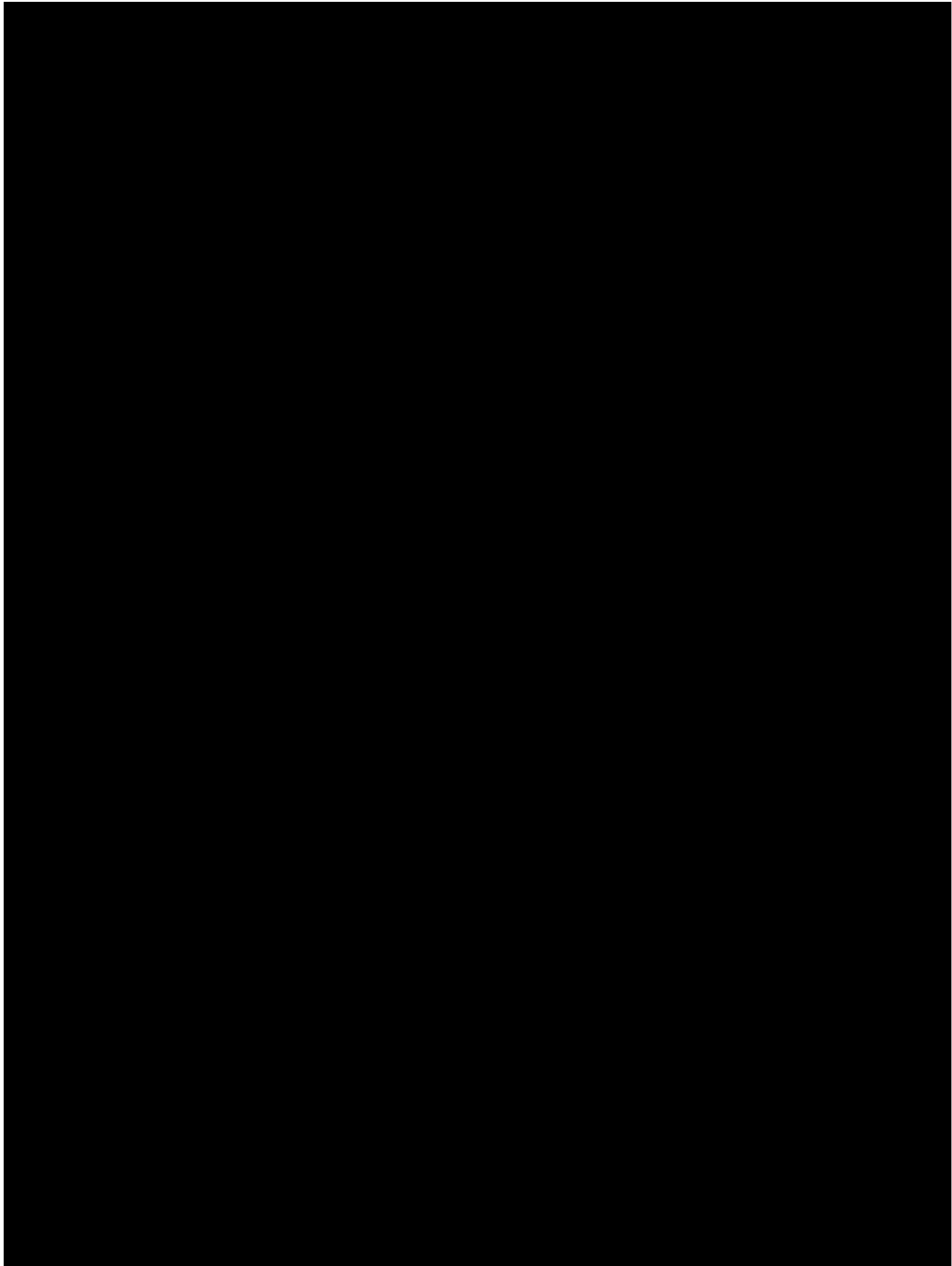


[REDACTED]

The first part of the paper discusses the importance of the research and the objectives of the study. It then presents a literature review of the existing research on the topic. The next section describes the methodology used in the study, including the data sources and the statistical techniques employed. The results of the study are then presented, followed by a discussion of the findings and their implications. Finally, the paper concludes with a summary of the main points and suggestions for future research.

The research was conducted using a quantitative approach, with data collected from a large sample of participants. The results show a significant positive correlation between the variables studied, indicating that the hypothesis was supported. The findings have important implications for the field and suggest that further research is needed to explore the underlying mechanisms.

In conclusion, the study provides valuable insights into the relationship between the variables and highlights the need for continued research in this area. The results are consistent with previous findings and offer new perspectives on the topic.



AE 061
(**SECRET**)

Photograph
of
Salim Hamdan

Maintained by Court Reporters

5 Dec 07 Hearing

AE 062

DVD
of
Salim Hamdan Interrogation

Maintained by Court Reporters

5 Dec 07 Hearing

[REDACTED]

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